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September 22, 2015

To: Mayor Michael D. Antonovich
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From: Sachi A. Hamai
Interim Chief Executive Officer

SACRAMENTO UPDATE - CONTINUUM OF CARE REFORM AND PSYCHOTROPIC MEDICATION IN FOSTER CARE LEGISLATION

Executive Summary

This memorandum contains the status of five measures of County interest related to Continuum of Care Reform to improve outcomes for foster youth in the child welfare system, and the use of psychotropic medication in foster care.

Legislation of County Interest

AB 403 (Stone), which as amended on September 4, 2015, is the California Department of Social Services (CDSS) measure to implement the recommendations of the Continuum of Care Reform (CCR) report to improve outcomes for foster youth in the child welfare system, including to reduce the number of foster youth in group home care, provide family-based settings, and provide a full array of mental health services to abused and neglected children. This bill is also part of the Administration's overall plan to address the issue of psychotropic medication in the foster care system and would expand training for resource families to include the administration of psychotropic medication.

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Specifically, this measure would: 1) sunset the operation and use of group homes as a placement option for children as of January 1, 2017, with the exception of group homes granted an extension to continue to operate with CDSS approval on a case-by-case basis until January 1, 2019; 2) create, as of January 1, 2017, a new licensure category of Short-Term Residential Treatment Centers (STRTCs) as residential facilities that provide children with short-term, specialized and intensive treatment, and 24-hour care and supervision; 3) require STRTCs to have national accreditation from an entity identified by CDSS and authorize a county to operate a STRTC; 4) allow STRTCs to have a program certified by the California Department of Health Care Services or a county mental health plan, or both. If the program does not have a certification, it may only serve children who are assessed as seriously emotionally disturbed and as meeting Early and Periodic Screening, Diagnostic and Treatment (EPSDT) medical necessity criteria if it arranges for a Medi-Cal eligible child to receive EPSDT specialty mental health services; and 5) sunset the existing rate-setting system for Foster Family Agencies (FFAs), effective January 1, 2017, and establish an interim rate system for FFAs granted an extension to operate.

Additionally, AB 403 requires CDSS to provide funding to counties to recruit, retain, and support foster parents, relative caregivers, and resource families based on CDSS approval of plans submitted by each county, including staffing, exceptional child needs, child care for caregivers, and intensive finding of relatives. It also requires CDSS to work with stakeholders, including other State departments and counties, to address critical issues in the initial and ongoing implementation of this measure.

The Department of Children and Family Services (DCFS) indicates that there are approximately 1,100 children in congregate care at the present time in the County. These children have challenging situations and many have serious mental health issues which make placement in family-based foster care difficult. According to DCFS, although AB 403 is well-intended and would improve foster care, the Department has some concerns with this measure which potentially could result in fewer placement options for some children with serious mental health disturbances. Eliminating group homes would remove a placement option for those youth who are either unable to thrive in a family-based setting, or who risk multiple placements in STRTCs due to the placement limit contained in AB 403. Additionally, there remains uncertainty about the number of STRTCs that would be able to complete the required mental health certification and national accreditation, required under the bill, and to meet the placement needs of these children. DCFS further indicates that there is no direct cost to the County identified, at this time, if fewer children are placed in group homes. It is also unknown whether the County would incur the cost for additional mental health services in order to keep children out of group homes. Therefore, the estimated County impact from AB 403 is unknown at this time.

The Department of Mental Health (DMH) indicates that the goal of AB 403 to place children in more family-like settings is well-intended; however, the implementation of this measure, should it be enacted, will be very complex and challenging. According to DMH, Medi-Cal certification, which is a DMH responsibility, would be greatly expanded if many, perhaps hundreds of new entities such as FFAs, must become Medi-Cal certified. Many foster children do not qualify for DMH services; however, they qualify for mental health services provided by a Medi-Cal managed care plan. Those children who qualify for mental health services from a Medi-Cal managed care plan will need to have their plan changed when placed across county boundaries.

AB 403 passed the Assembly Floor, in concurrence of Senate amendments, by a vote of 79 to 0 on September 11, 2015. This measure is currently awaiting consideration by the Governor.

SB 238 (Mitchell and Beall), which as amended on September 4, 2015, would: 1) require certification and training programs developed by CDSS for foster parents, child welfare social workers, group home administrators, public health nurses, dependency court judges and court appointed council to include training on psychotropic medication, trauma, and behavioral health for children receiving child welfare services; 2) require a county child welfare department, probation agency, or other individual who requests authorization for the administration of psychotropic medication to provide the child's caregiver with a copy of the resulting court order; and 3) require the Judicial Council, on or before July 1, 2016, to amend and adopt rules of the court and develop appropriate forms on the authorization of psychotropic medication for foster youth, in consultation with CDSS, the California Department of Health Care Services (DHCS), and specified stakeholders, among other provisions.

SB 238 passed the Senate Floor, in concurrence of Assembly amendments, by a vote of 39 to 0 on September 10, 2015. This measure is currently awaiting consideration by the Governor.

SB 253 (Monning), which as amended on August 31, 2015, would: 1) require, beginning July 1, 2016, that a court order authorizing the administration of psychotropic medications to a dependent or delinquent child in foster care be granted only upon the court's determination that the administration of the medication is in the best interest of the child and that specified requirements have been met; and 2) prohibit the court from authorizing the administration of psychotropic medications to a child under specified circumstances unless a second medical opinion is obtained from an appropriately qualified health care professional, and unless the court is provided documentation that appropriate laboratory screenings and tests have been completed no more than 45 days prior to submission of the request to the court, among other provisions.

SB 253 was placed in the Senate Inactive File on September 2, 2015, and it will not proceed this year. This measure is now a two-year bill.

SB 319 (Beall), which as amended on September 3, 2015, would: 1) authorize, but not mandate, a foster care public health nurse to monitor and oversee the child's use of psychotropic medications as part of the current requirement to participate in medical care planning and coordinating for a child; 2) require a foster care public health nurse to assist a nonminor dependent to make informed health care decisions; and 3) authorize the disclosure of specified health care and mental health care information to a foster care public health nurse. As amended, provisions in SB 319 relating to State funding were removed, as well as provisions detailing the specific duties of a foster care public health nurse on the oversight and monitoring of a child in foster care who is administered one or more psychotropic medication.

The Department of Public Health (DPH) indicates that it supports the need for a foster care public health nurse to monitor and oversee the psychotropic medications prescribed to foster children. However, DPH has concerns with the recent amendments to SB 319 that remove State funding while retaining the mandate on counties to provide additional responsibilities, and with the lack of specificity of the new duties. DPH estimates that the increased workload would require an additional eight foster care public health nurses and one Supervisor for an annual cost of approximately \$1.5 million, which may be partially offset by Federal funding.

SB 319 passed the Senate Floor, in concurrence of Assembly amendments, by a vote of 40 to 0 on September 10, 2015. This measure is currently awaiting consideration by the Governor.

SB 484 (Beall), which as amended on September 3, 2015, would: 1) require CDSS to establish a methodology, in consultation with DHCS and stakeholders, to identify group homes that utilize psychotropic medication at levels which warrant additional review, and to inspect such facilities at least once a year; 2) authorize CDSS to share specified information with the identified facility, and with the county placing agencies, social workers and probation officers, court and dependency counsel, and require the facility to submit to CDSS a plan within 30 days to address risks; 3) require a group home to maintain in a child's records specified information on the administration of psychotropic medication; and 4) require CDSS to compile statewide information regarding the administration of psychotropic medications to children in group homes and to post that information on the Department's website, among other provisions.

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SB 484 passed the Senate Floor, in concurrence of Assembly amendments, by a vote of 40 to 0 on September 10, 2015. This measure is currently awaiting consideration by the Governor.

This office will continue to work with affected departments to determine any further potential impact to the County from the above measures.

We will continue to keep you advised.

SAH:JJ:MR
OR:IGEA:ma

c: All Department Heads
Legislative Strategist
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